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September 29, 2015

VIA EMAIL [fhampton@fec.gov]

Federal Election Commission  
Office of Complainants Examination  
and Legal Administration  
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FEDERAL ELECTION  
COMMISSION

RE: MUR 6888 – Response of Bobby Jindal, Jindal for President (Rolfe McCollister, Treasurer)

Dear Commission:

On behalf of Governor Bobby Jindal, his authorized campaign committee Jindal for President, and Rolfe McCollister, Jr. in his official capacity as Treasurer (collectively, "JFP"), this letter is submitted in response to the Second Supplemental Complaint filed by American Democracy Legal Fund, and assigned MUR 6888. JFP received notice of the filing on September 15, 2015, and this reply is timely filed within the prescribed 15-day deadline.

As described in further detail below, the Second Supplemental Complaint is devoid of any factual or legal basis pertaining to JFP engaging in any activities that violate the Federal Election Campaign Act of 1971, as amended (the "Act"), or Federal Election Commission ("Commission" or "FEC") regulations. Indeed, it is nothing more than a partisan stunt by a former spokesman for the Democratic National Committee designed to garner headlines. Accordingly, the Office of General Counsel should decline to recommend that the Commission find reason to believe that a violation has occurred, and the Commission must vote to dismiss JFP as a Respondent, close the file and take no further action in this matter.

#### FACTS

The Complainant filed its Second Supplemental Complaint on the grounds that there is "new evidence" of additional and ongoing violations of the Act. In support of its filing, the Complainant makes sweeping allegations that JFP along with a number of Republican candidates and political party committees are illegally coordinating with outside organizations via Data Trust and i360, a charge that is legally unfounded and factually untrue.

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In truth, the allegations are based on nothing more than "press reports," of which the Complainant identifies a single story that makes no mention of Governor Jindal or his authorized campaign committee. Further, the unnamed "RNC officials" cited in Footnote 11 of the Second Supplemental Complaint make no mention of Governor Jindal or his authorized campaign committee. Indeed, while the Complainant urges the Commission to investigate the alleged coordinated communications facilitated through the exchange of voter data, the Second Supplemental Complaint is devoid of any factual allegations that JFP has violated any provision of the Act or Commission regulations. The reason is clear: there are simply no facts to support the Complainant's allegations. JFP has not entered into any agreement or arrangement with either Data Trust or i360, and has not engaged in any activities that violate either the spirit or the letter of the law.

This deficiency, however, does not appear to deter the Complainant, who makes a conclusory statement that by virtue of entering into a data-sharing arrangement with the Republican National Committee ("RNC"), the Respondents – including JFP – are engaging in a conspiracy to violate the coordinated communications rules. While it is true that JFP does have a data exchange agreement with the RNC, no information concerning political strategy or use of the data is discussed or conveyed (despite what the Complainant claims). JFP is simply provided access to the raw data contained in the RNC's voter file; in exchange, JFP provides to the RNC any new voter information obtained through its use of the RNC's voter file, valued at the same fair market value as the data received.

#### LEGAL ANALYSIS

##### *The Second Supplemental Complaint is Legally Deficient.*

In order for a complaint to satisfy the technical requirements of 11 CFR 111.4, it must set forth specific facts, that, if proven true, would constitute a violation of the Act. Complaints not based upon personal knowledge must identify a source of information that reasonably gives rise to a belief in the truth of the allegations presented. *See* 11 CFR 111.4(d)(2).

Here, the Second Supplemental Complaint fails to meet this threshold standard. It relies solely on conjecture and speculative media reports that provide nothing more than inaccuracies and generalizations – hardly the kind and sufficiency of evidence that reasonably gives rise to the belief in the truth of the allegations presented.

As justification for filing a Second Supplemental Complaint, the Complainant alleges that "at least eleven Republican candidates for President of the United States are now involved in the scheme to skirt the Commission's 'coordinated communication' regulations by passing their most valuable data to outside organizations via the GOP Data Trust and ... i360." However, the Complainant makes no effort to check its facts or provide any specific information to support his allegations. Nowhere is there any evidence presented by the Complainant of any activity that would violate the coordinated communication regulations. And, nowhere is there any evidence presented by the Complainant of any wrongdoing by Governor Jindal or his authorized campaign committee. Indeed, as discussed above, there is no reference to Governor Jindal or his authorized campaign committee anywhere in the Second Supplemental Complaint (aside from

appearing as a Respondent in the caption). Instead, the Complainant seemingly names every Republican candidate and committee that has ever been mentioned in a news article with the words "RNC." Such spurious allegations cannot provide a basis for an enforcement action.

*JFP Has Not Received Any Improper In-Kind Contributions.*

The Complainant alleges broadly that the Respondents, including JFP, have engaged in a scheme to skirt the coordinated communications rules by entering into bona fide list exchange agreements. Nothing could be further from the truth.

As discussed above, JFP has in fact entered into a lawful data exchange agreement with the RNC, whereby JFP is provided access to the raw data contained in the RNC's voter file, and in exchange, provides to the RNC any new voter information obtained through its use of the RNC's voter file. It is common practice for candidate committees as well as other political committees to exchange lists and information with other organizations in an effort to enhance their own data, and indeed such arrangements are permitted by the FEC, provided that the lists or information exchanged is of equal value. See generally AO 2002-14 (noting that when such exchanges occur, no "contribution, donation, or transfer of funds or any other thing of value takes place"). Here, the very terms of the agreement between the RNC and JFP demonstrate compliance with Commission rules, ensuring that no improper in-kind contributions result, and any attempt to characterize the committees' activities otherwise are demonstrably false.

*JFP Has Not Engaged in Any Illegal Coordination.*

The Second Supplemental Complaint is based on a fundamental misunderstanding of the law and the facts with regard to the coordinated communications rules.

A communication is coordinated when it (1) is paid for by a person other than the candidate, authorized committee or political party committee, (2) satisfies the content standard, and (3) satisfies the conduct standard. See 11 CFR 109.21(a).

Here, the Complainant fails to point to any communication that satisfies any of the three prongs of the coordinated communications test, and therefore its allegations must fail. First, the Complainant does not identify a single communication paid for by another entity involving JFP. Second, the Complainant does not point to a single communication that purportedly satisfies the content prong, particularly with respect to JFP (namely, because the Complainant fails to make any allegations specific to JFP). Third, the Complainant does not allege any facts that support the satisfaction of the conduct prong regarding JFP. Given the lack of evidence to support the Complainant's allegations and its misplaced legal theories, the FEC must find that the Second Supplemental Complaint contains no factual or legal basis for the alleged illegal coordination, particularly as it pertains to JFP.

**CONCLUSION**

The Complainant's attempt in this Second Supplemental Complaint is nothing more than a politically motivated charge by an organization known more for filing frivolous complaints than

for contributing anything substantial to the public discourse. A single view of the Complainant's website shows nearly a dozen complaints filed in the last two months alone. Indeed, as is the case here, the Complainant appears to sacrifice quality for quantity, feeding off of the hope of a few press hits to justify its existence.

For the reasons outlined above, this Second Supplemental Complaint fails to meet the pleading standard set forth by the Commission. Accordingly, OGC should decline to recommend that the Commission find reason to believe that a violation has occurred, and the Commission must vote to dismiss JFP as a Respondent in this matter, close the file and take no further action.

Respectfully,



Heather Sidwell Morris  
*Counsel to Jindal for President*